STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of V.J.F., A.J.F., and S.M.F., Minors.

DEPARTMENT OF HUMAN SERVICES, f/k/a FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

TONIA MARIE LAPLANTE,

Respondent-Appellant.

UNPUBLISHED
May 25, 2006

No. 263978
Macomb Circuit Court
Family Division
LC No. 2004-057534-NA

Before: Cavanagh, P.J., and Fort Hood and Servitto, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court opinion and order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

Respondent first contends that this matter should be remanded so that she can withdraw her plea of "not responsible" because the trial court failed to comply with the requirements of MCR 3.971, thus denying respondent her due process rights. We disagree. While the record shows that the Montmorency Circuit Court, where this case began, did not comply with the requirements of MCR 3.971, respondent has failed to preserve this issue for appeal. Matters affecting the court's exercise of its jurisdiction may be challenged only on direct appeal of the jurisdictional decision, not by collateral attack in a subsequent appeal of an order terminating parental rights. *In re Hatcher*, 443 Mich 426, 439-440; 505 NW2d 834 (1993); *In re Gazella*, 264 Mich App 668, 679-680; 692 NW2d 708 (2005). Moreover, respondent has failed to demonstrate that the court's error affected her substantial rights. We conclude that, even if this issue had been timely raised, the outcome would have remained the same. See *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999); *Kern v Blethen-Coluni*, 240 Mich App 333, 336; 612 NW2d 838 (2000).

Next, respondent contends that the trial court prematurely and incorrectly terminated her parental rights because she did not receive adequate services to accommodate her disability. Again, respondent has failed to properly preserve this issue by timely raising it in the lower court. The time for asserting the need for accommodation in services is when the court adopts a service plan, not at the time of a dispositional hearing to terminate parental rights. *In re Terry*,

240 Mich App 14, 26; 610 NW2d 563 (2000). Failure to timely raise the issue constitutes a waiver. *Id.*

The trial court's decision that petitioner made reasonable efforts to reunify the family is reviewed for clear error. *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000). A finding of fact is clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake was made. *Terry*, *supra* at 22. We conclude that the trial court did not clearly err in determining that reasonable efforts were made to reunite respondent with the children. Numerous services were offered, but respondent remained unable to parent her children. Although the psychiatrist opined that respondent had been misdiagnosed and mistreated, he did not give a very positive prognosis that she would be able to parent her children within a reasonable time even with appropriate treatment. The trial court did not clearly err in refusing to allow the children to continue without permanence and stability for an additional six months to a year to see if respondent was sufficiently motivated and could be helped by further treatment.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Karen M. Fort Hood
/s/ Deborah A. Servitto